

August 24, 2007

FILED ELECTRONICALLY WITH ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation

**In the Matter of Stratos Global Corporation and Robert M. Franklin, Trustee
WC Docket No. 07-73, DA 07-2257**

Dear Ms. Dortch:

Pursuant to 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), this Notice of Ex Parte Presentation ("Notice") is being submitted on behalf of Stratos Global Corporation ("Stratos"), the Trustee Robert M. Franklin ("Trustee"), CIP Canada Investment Inc. ("CIP Canada"), and Inmarsat Finance III Limited ("Inmarsat Finance") in the above-referenced matter. On Thursday August 23, 2007, the Trustee and representatives for Stratos (Richard Harris, Bruce Henoch, and Alfred Mamlet), Inmarsat Finance (Diane Cornell, Justin Lilley and John Janka), CIP Canada (Patricia Paoletta and Kelley Shields), met to discuss the above-referenced transfer of control application with the following members of the International Bureau and General Counsel's office: Helen Domenici, Francis Gutierrez, Jim Ball, David Strickland, John Copes, James Bird and Neil Dellar.

The attached presentation (distributed at the meeting) and the parties' positions of record formed the basis for the discussion between the Trustee, Stratos, Inmarsat Finance, CIP Canada and the General Counsel and International Bureau staff.

Respectfully submitted,

/s/
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Attachment

cc: Helen Domenici (International Bureau) - by email
Francis Gutierrez (International Bureau) - by email
Jim Ball (International Bureau) - by email
David Strickland (International Bureau) - by email
John Copes (International Bureau) - by email
James Bird (Office of General Counsel) - by email
Neil Dellar (Office of General Counsel) - by email

Application for Transfer of Control of
Stratos to a Canadian Trust
WC Docket No. 07-73, DA 07-2257

Meeting with International Bureau
August 23, 2007



Transaction Status

| <u>Clearance</u> | <u>Date</u> |
|-----------------------------------------|----------------------------------|
| Louisiana PSC | 5/5/07 (Approved) |
| Texas PUC | 5/17/07 (Approved) |
| Shareholder Vote | 6/12/07 (Approved) |
| CFIUS | 6/28/07 (Review concluded) |
| Hart-Scott-Rodino | 7/23/07 (Waiting Period Expired) |
| New Zealand Overseas Investment Office | 7/27/07 (Approved) |
| Russian Anti-monopoly Authority (FAS) | 8/6/07 (Approved) |
| Industry Canada (Investment Canada Act) | Pending |
| FCC | Pending |

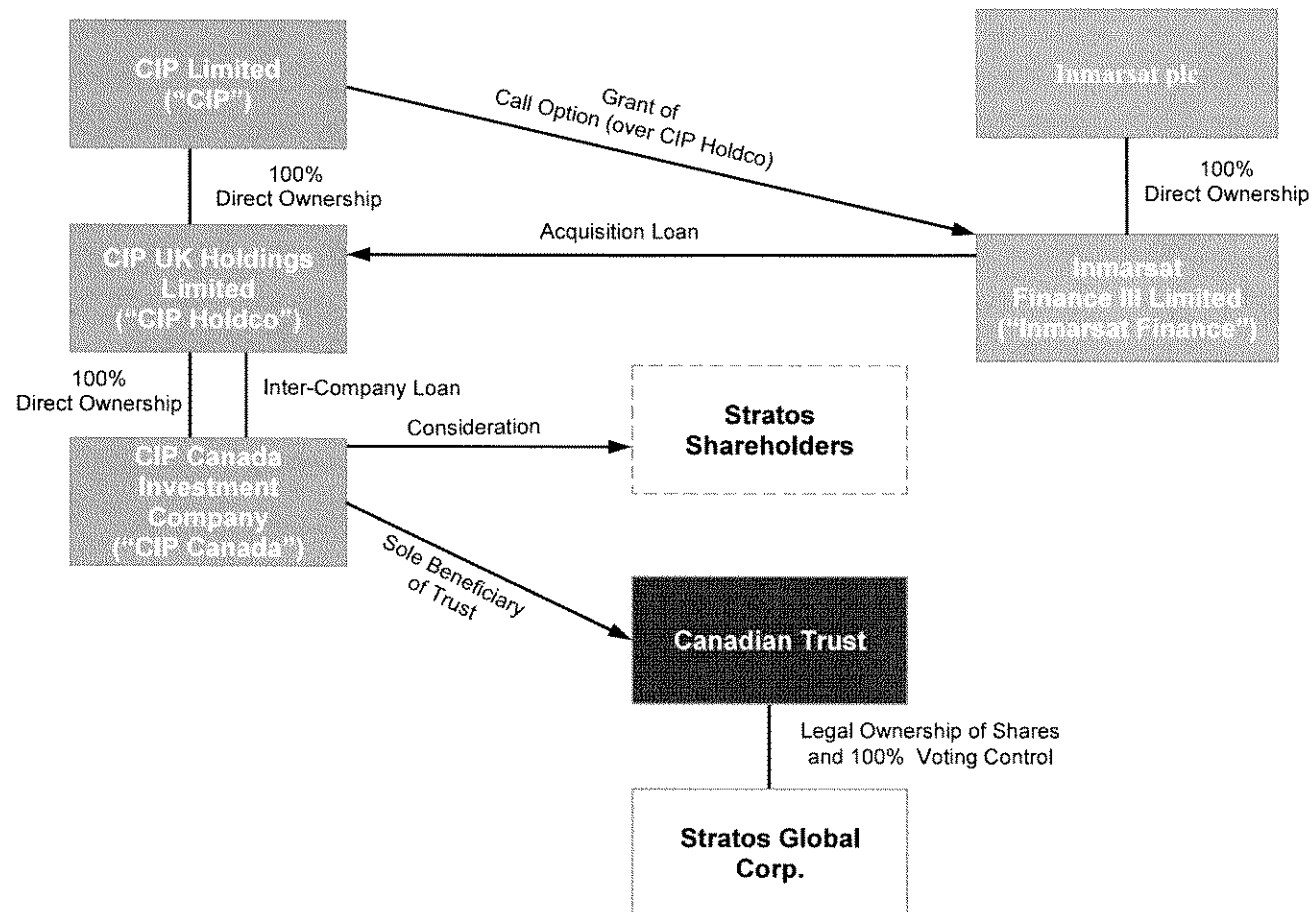
Participants

- Acquired Company: Stratos Global Corporation (Stratos)
- Trustee: Robert Franklin
- Trust Beneficiary: CIP Canada Investments Inc. (CIP Canada), a subsidiary of Communications Investment Partners Limited (CIP)
- Lender: Inmarsat Finance III Limited (Inmarsat Finance), subsidiary of Inmarsat plc (with affiliates, “Inmarsat”)

Deal Structure

- CIP Canada purchases Stratos from public shareholders – shares and voting control transfer to an irrevocable Canadian trust
 - Trust owns and votes 100% of Stratos stock
 - Trust structure prevents CIP or Inmarsat from having control over Stratos
- Inmarsat Finance provides financing and purchases call option from CIP to acquire control of Stratos, exercisable after April 14, 2009
- Inmarsat Global Ltd.'s distribution agreements (expiring in April 2009) prohibit it from owning or controlling any distributor of Inmarsat services, including Stratos
- After April 2009, Trust terminates and Stratos shares will be transferred to CIP, Inmarsat or third party, subject to obtaining additional FCC and other governmental approvals

Stratos Shares Transferred to Trust



Petitions to Deny Should be Rejected

- Petitioners: Iridium, Vizada and Telenor
 - all three compete with Stratos or Inmarsat
- Petitions misstate law and facts and are speculative
 - Petitioners ignore Trust Agreement
 - Petitioners' focus on relationship between Inmarsat Finance and CIP is a red herring
 - Petitioners' arguments about competition effects are speculative
 - Petitioners fail to explain how consumers could be harmed

Trustee Will Ultimately Control Stratos

- Focus of analysis should be whether Trust Agreement provides Trustee with ultimate control
- Trust satisfies FCC's conditions for trustee maintaining control (*Tender Offer Policy Statement, Attribution Policy Statement, Warburg*):
 - Trust holds legal title to stock; Trustee has 100% voting rights
 - CIP and Inmarsat precluded from communicating with Trustee about operation, control and management of Stratos
 - Trustee is independent of CIP and Inmarsat
 - Trust is irrevocable and Trustee may be removed only in limited circumstances
- Trustee selects Stratos Board, who appoints Stratos management
- Trustee's unfettered authority to replace board and management provides him with ultimate control and makes board and management accountable
- Like most shareholders (and trustees), Trustee does not intend to manage day-to-day operations, but intends to rely on officers and directors who are accountable to him

Mr. Franklin is a Qualified Trustee Committed to Maintaining Independence

- Qualifications
 - Experienced businessman
 - Previously Chairman of four public companies
 - Currently serves as Director for 5 boards; previously Director on 24 other boards
 - Previously served as Trustee for two Income Trusts
- Independence
 - Contractually required to operate independently
 - Mr. Franklin will maintain considerable reputation as independent trustee and fiduciary

Precedent Supports Trust

- Trusts may be used to serve business needs
 - “[T]rusts...established for personal and economic reasons unrelated to any Commission Rule...should be facilitated to the extent possible.” *Attribution Policy Statement* at ¶ 53
 - Trust used to ensure independence from Inmarsat Global and no breach of Distribution Agreements
- Use of a trust is not novel and not limited to short term emergencies
 - “Trusts, like any other legal entity, may hold broadcast licenses.” *Twentieth Holdings* at ¶ 5
 - FCC rules expressly allow Trusts to hold licenses under 47 C.F.R. § 25.103 (satellite communications - defines communications common carrier to include trusts); 47 C.F.R. § 1.2105(a)(ii)(A) (competitive bidding rules); 47 C.F.R. § 5.5 (experimental licenses – defines person to include trusts); 47 C.F.R. § 22.99 (public mobile services – defines telecommunication common carrier to include trusts); 47 C.F.R. § 90.7 (private land mobile radio service – defines person to include trusts).
- Expected term of less than 2 years is shorter than term of other trusts the FCC has approved
 - *Warburg* – approving trust for unlimited period; trust lasted 7 years
 - *Twentieth Holdings* – approving transfer of a television station to a trust and holding that “if properly insulated, the trust could continue indefinitely.” *Id.* at ¶ 21.

Petitioners Do Not Identify Any Defect In Trust

- Trust Agreement ensures Trustee will exercise control over Stratos
- By definition, all trusts separate control (held by the trustee) from economic interests (held by beneficiary)
- Because the Trust Agreement gives Trustee ultimate control, the economic relationship between the beneficiary (CIP) and the lender (Inmarsat Finance) is irrelevant

Inmarsat Would Not Have De Facto Control Of Stratos

- Inmarsat would not have de facto control under *Intermountain* test
 - Inmarsat would not have the right to determine use of Stratos facilities and equipment
 - Inmarsat would not have control of daily Stratos operations
 - Inmarsat would not decide or carry out Stratos' policy decisions, including preparing and filing FCC applications
 - Inmarsat would not employ, supervise or dismiss Stratos personnel
 - Inmarsat would not pay Stratos' financing obligations, including expenses arising out of operations
 - Inmarsat would not be entitled to extract monies or profits from the operation of Stratos
- Inmarsat is neither an equity holder of nor a lender to Stratos
 - Inmarsat Finance loan is to CIP, **not** Stratos
- Inmarsat has no representation on Stratos Board or among Stratos management
- Commission has found that far greater rights do not provide *de facto* control
 - *AMRC (2001)* – no *de facto* control by third party who (i) provided 100% of critical funding, (ii) held an option to acquire a majority equity stake, (iii) had its CEO as one of three board members of a licensee, and (iv) had an employee who also was an officer of the licensee
 - *Lockheed Martin* – no *de facto* control by entity who had (i) 3 of 15 board seats, (ii) 49% equity stake, (iii) the right to acquire remaining 51%, and (iv) had agreed to acquire *de jure* control
 - *Broadcast Local Marketing Agreements (LMA)* - no *de facto* control by third party who (prior to receiving FCC consent) (i) provided substantially all of the programming over broadcast station, (ii) acquired ownership of substantially all station assets (other than FCC licenses), (iii) paid substantially all of the purchase price, (iv) acquired assignable option to acquire FCC licenses, (v) employed almost entire station staff, (vi) bore economic risk of station operations by receiving all revenues and bearing all expenses, and (vii) negotiated terms for station acquisition. *Fant Broadcasting*, 19 FCC Rcd 8229 (2004).

Stratos Will Continue to Operate Independently and Transparently

- Stratos management has fiduciary duty and financial incentives to maximize revenues
- Stratos has actually increased Iridium subscribership substantially more than Inmarsat subscribership since deal announced
- Stratos will continue to file financial reports with SEC and Toronto Stock Exchange (TSX)
- Stratos reports revenues on a segmented basis:
 - Inmarsat
 - Other MSS (e.g., Iridium, Globalstar, MSV)
 - Broadband (VSAT, microwave)

Analysis Should be Limited to the Proposed Transaction

- FCC limits analysis to the transaction before it
- Not certain that Inmarsat will exercise option
 - CIP or a third party may take control
 - CIP does **not** have a “put” right
- The future transfer out of the Trust will be subject to further government approvals

Approval Is In the Public Interest

- The transaction presents no competition concerns or countervailing harms
 - Stratos service offerings, rates, terms and conditions of service remain unaffected
- Petitioners:
 - agree that the marketplace for satellite services is highly competitive
 - do not explain how **consumers** would be harmed by the transaction
- Even if Inmarsat could cause Stratos to favor Inmarsat over Iridium service
 - Iridium can sell directly, or rely on other 30+ distributors
 - consumers would still be able to obtain Iridium service
- Vizada's and TSS's distribution of Inmarsat services would be unaffected by transaction
 - Under distribution agreements, Inmarsat cannot discriminate in favor of Stratos over other distributors
 - Upon expiration of distribution agreements in April 2009, Inmarsat can change distribution structure regardless of this transaction
 - In any event, consumers would still be able to obtain Inmarsat services
- The transaction allows Stratos to remain a leading provider of MSS and VSAT in competition with Vizada, Telenor and others
- Precedent requires no further affirmative showing
 - "There is no evidence in the record to suggest that Inceptum lacks the basic qualifications to be the transferee of the licenses and authorizations held by TSI." *Inceptum Order*, DA 07-2163 (rel. May 23, 2007).